

## **REMARKS**

Claims 1-6, 9-29, 31 and 35-39 are pending and subject to a restriction under 35 U.S.C. §121 and §372. Please note that claims 37 and 39 were previously amended in Applicant's response (filed October 17, 2008) to the first restriction issued in this case.

The Office Action states that claim 39 was mistakenly included within Group I of the previous restriction, while it should be in Group II. Thus, a new restriction was required to one of the following groups of inventions:

Group I: Claims 1-6, 9-20, 35-38 drawn to a process for production of plasmid DNA;

Group II: Claims 21-27 and 39 drawn to a method for selecting a highly productive clonal subtype of a strain of *E. coli*; and,

Group III: Claims 28-29 and 31 drawn to a method for selecting a highly productive clonal subtype of a strain of *E. coli*.

Applicants herein elect, with traverse, Group I to prosecute in the present application, without prejudice to prosecution of the subject matter of the non-elected groups in subsequent applications.

Unity of invention is said to exist when there is a technical relationship among the claimed inventions involving one or more special technical features; see, *e.g.*, MPEP Section 1850. The term "special technical features" is defined as meaning those technical features that define a contribution that each of the inventions, considered as a whole, makes over the prior art. *Id.*

The Office Action has identified the common technical feature of the pending claims as the process of selecting a highly productive clonal subtype of a strain of *E. coli*. The Office Action further concludes that said technical feature cannot be considered a special technical feature due to Chen et al. (IDS reference A). Applicants respectfully traverse.

While Chen et al. teaches an automated feed-back control, fed-batch fermentation process based on dissolved oxygen (DO) and pH, it does not teach the step of first selecting a highly productive clonal subtype of a strain of *E. coli* to cultivate in said fed-batch fermentation process. Chen et al. used *E. coli* strain DH10B in demonstration of the disclosed process, without prior selection of a clonal subtype of DH10B shown to exhibit a higher plasmid copy number per cell when compared to other DH10B clonal subtypes. As such, Applicants respectfully argue that Chen et al. does not anticipate claim 1 and, thus, a special technical feature can be found among the pending claims.

Applicants, in summary, reiterate their election of **Group I**. Applicants maintain that all claims are in condition for allowance and a favorable action on the merits is earnestly solicited.

Respectfully submitted,

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